

SENATE BILL REPORT

SSB 5534

As Amended by House, April 3, 2007

Title: An act relating to an exemption from unemployment compensation for certain small performing arts industries.

Brief Description: Creating an exemption from unemployment compensation for certain small performing arts industries.

Sponsors: Senate Committee on Labor, Commerce, Research & Development (originally sponsored by Senators Kohl-Welles, Clements and Keiser).

Brief History:

Committee Activity: Labor, Commerce, Research & Development: 2/05/07, 2/12/07 [DPS].
Passed Senate: 3/08/07, 47-0.

SENATE COMMITTEE ON LABOR, COMMERCE, RESEARCH & DEVELOPMENT

Majority Report: That Substitute Senate Bill No. 5534 be substituted therefor, and the substitute bill do pass.

Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Clements, Ranking Minority Member; Franklin, Holmquist, Murray and Prentice.

Staff: Jennifer Strus (786-7316)

Background: Generally, most employers are required to pay unemployment insurance taxes on their employees unless the employer can demonstrate that the workers are volunteers or independent contractors. In the performing arts area, some theaters and performing arts groups are very small and while they do not pay wages to most of their performers, they sometimes pay them a stipend as reimbursement for travel, child care, and food expenses. The Employment Security Department (ESD) considers these stipends to constitute wages on which unemployment taxes must be paid unless the performing arts company or theater has a paper trail showing that the stipend was reimbursement for expenses incurred in participating in the performances.

Summary of Substitute Bill: The term "employment," as used throughout the unemployment insurance statutes, does not include any person engaged in activities related to a performance sponsored by a theater company, dinner theater, dance company, or museum as long as the person receives no pay for the activities other than a nominal stipend. A stipend is a fixed amount of money periodically paid to defray expenses. The stipend is presumed to defray the person's incidental expenses incurred in the activities, including meals, transportation, lodging, costumes, supplies, child care, and related expenses. Employers who

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employ more than three persons during any portion of the day in a calendar year must pay unemployment taxes.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: PRO: An audit by ESD in 2005, in which it was discovered that several small theaters were not paying unemployment insurance taxes, caused a number of small theaters who previously paid stipends to discontinue that practice and use only volunteers for their performances. The theater organizations want to encourage small theaters to pay a stipend, however small, because performers receive something for their work, even if it is just reimbursement for their expenses in being part of the performance. A stipend respects the artists and their work. Any theater with more than three employees in a year, even part-time employees, would not qualify for this exemption and that is appropriate.

Persons Testifying: PRO: Senator Kohl-Welles, prime sponsor; Gretchen Johnston, Washington State Arts Alliance; Karen Zeller-Lane, Theater Puget Sound.

House Amendment(s): Corrects an inadvertent omission in the North American Industry Classification System Code so that the term employment does not include services performed by people participating in performances sponsored by musical groups and artists so long as other requirements are met.